

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6000 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GANESHJI HIRAJI MEENA

Versus

PRINCIPAL

Appearance:

MR PK PANCHOLI for Petitioner
Ms HARSHA DEVANI ADDL.GOV.T.PLEADER
for Respondents.

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 06/02/97

ORAL JUDGEMENT

Rule. Ms.Harsha Devani, learned Asstt. Govt.
Pleader waives service of notice of Rule on behalf of
respondents.

At the request of learned advocates appearing for
the parties, the petition is heard today.

By means of filing this petition under Art. 226 of Constitution, the petitioner has prayed to issue an appropriate writ, direction or order to quash and set aside decision of respondent no.1 as indicated in letter dt. May 27, 1996 which is produced at Annexure B to the petition as well as decision dt. July 15/18, 1996 rendered by respondent no.1.

The son of the petitioner named Basantkumar Meena passed S.S.C.Examination in March, 1995 and had secured 45.57% marks. The son of the petitioner was admitted in P.T.C. course on the basis of certificate issued by City Mamlatdar which indicated that he belongs to Scheduled Tribe. However it was not mentioned in the said certificate that the son of the petitioner belongs to Scheduled Tribe recognized by the State of Gujarat. On the contrary, it was specifically mentioned therein that the son of the petitioner belongs to Scheduled Tribe recognized by the State of Rajasthan. Under the circumstances, the son of the petitioner was provisionally admitted to P.T.C. course. By letter dt. May 27, 1996, the respondent no.1 called upon son of the petitioner to produce certificate indicating that he belongs to Scheduled Tribe as recognized by the State of Gujarat. By the said letter, the son of the petitioner was informed that the admission granted to him would be cancelled, if he failed to produce necessary certificate. It is an admitted position that the son of the petitioner could not produce certificate indicating that he belongs to Scheduled Tribe as recognized by the State of Gujarat. Under the circumstances, the respondent no.1, by letter dt. July 15/18, 1996 has cancelled the admission given to the son of the petitioner, giving rise to the present petition.

What is claimed in the petition is that as the petitioner had produced certificate issued by City Mamlatdar, the admission granted to the son of the petitioner should not have been cancelled and the son of the petitioner should have been permitted to prosecute further studies. Under the circumstances, the petitioner has filed the present petition and claimed the relief to which reference is made earlier.

In my view, the relief claimed in the present petition cannot be granted. In the case of Action Committee on issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and Another Vs. Union of India and Another, JT 1994(4) SC 423, the Supreme Court has held that merely because a given caste is specified in State A as a Scheduled Caste

does not necessarily mean that if there be another caste bearing the same nomenclature in another State the person belonging to the former would be entitled to the rights, privileges and benefits admissible to a member of the Scheduled Caste of the latter State 'for the purposes of the Constitution'.

In the case of MARRICHANDRA SHEKHAR RAO Versus DEAN, SHETH G.S.MEDICAL COLLEGE AND OTHERS, (1990) 3 SCC 130, the Supreme Court has held that candidate recognised as a member of ST/SC in his original State on his migration to another State is not entitled to get benefit of reservation of seats. Admittedly son of the petitioner does not belong to either SC or ST as specified by the State of Gujarat, and therefore, he is/was not entitled to be admitted on the seat which was reserved for Scheduled Caste/ Scheduled Tribe candidate. The decision to cancel provisional admission granted to the son of the petitioner cannot be said to be unreasonable or arbitrary so as to call for interference of the court in the present petition which is filed under Art. 226 of the Constitution, as the petitioner has no subsisting legal right. The petition is, therefore, liable to be dismissed.

For the foregoing reasons, the petition fails and is hereby dismissed. Rule is discharged, with no order as to costs. Interim relief granted earlier is hereby vacated.
